

CITY OF MUSKEGON  
ZONING BOARD OF APPEALS  
REGULAR MEETING  
MINUTES

**June 9, 2015**

Chairman R. Hilt called the meeting to order at 4:00 p.m. and roll was taken.

MEMBERS PRESENT: R. Hilt, B. Larson, E. Carter, E. Fordham, S. Warmington

MEMBERS ABSENT: T. Halterman, W. German

STAFF PRESENT: M. Franzak, D. Renkenberger

OTHERS PRESENT: M. Bingner, 1515 Henry St; J. Reinicke, 2473 Crozier

**APPROVAL OF MINUTES**

A motion that the minutes of the regular meeting of February 10, 2015 be approved was made by B. Larson, supported by E. Fordham and unanimously approved.

**PUBLIC HEARING**

**Hearing; Case 2015-03:** Request for a variance from Section 2311 of the zoning ordinance to allow a detached garage in a front yard in an R-1. Single Family Residential district at 1515 Henry St, by Mike Bingner. M. Franzak presented the staff report. This parcel is a double lot located at the southwest corner of Henry Street and Grand Avenue, in an R-1, Single Family Residential district. A house used to sit on the northernmost half of the lot. Since this is a corner lot, there are two front yards on this property per City ordinance. The ordinance does not allow garages in front yards, which causes a genuine hardship on this property. There is no other place on the lot that a detached garage could be built. Notice was sent to all property owners within 300 feet. At the time of this writing, staff had not received any comments from the public. Staff recommends approval of the variance because there is an actual hardship with the way the lot is configured, and the zoning ordinance does not make exceptions for garages in front yards on corner lots.

E. Fordham stated that he noticed tarps and other clutter on the property, and asked if these items would be removed once a garage was built. M. Bingner stated that he would put those items inside the garage. E. Carter asked where access to the garage would be located. M. Franzak stated that Mr. Bingner would be required to provide that information on a site plan once the board granted approval to have a garage. He informed Mr. Bingner that a paved driveway to the garage would be required.

A motion to close the public hearing was made by S. Warmington, supported by E. Carter and unanimously approved.

R. Hilt stated that the request seemed to fit the criteria required to grant a variance. The following findings of fact were offered: a) That there are exceptional or extraordinary

circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district (i.e. this property is a corner lot with two front yards), b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest, d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner, e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and f) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the variance request to allow a detached garage in the front yard as proposed on the site plan in an R-1, Single Family Residential District at 1515 Henry St be approved, was made by S. Warmington, supported by E. Fordham and unanimously approved, with R. Hilt, B. Larson, E. Carter, E. Fordham, and S. Warmington voting aye.

**Hearing; Case 2015-04: Request for a variance from Section 404 of the zoning ordinance to allow an addition to the principal structure with only a three foot side setback on the west side of the property at 2473 Crozier Ave, by John Reinecke.** M. Franzak presented the staff report. The property is located in an R-1, Single Family Residential district. The applicant is proposing to add a new attached garage. Attached garages are considered part of the primary structure and must have a minimum side setback of six feet. The applicant is asking for a variance to place the garage only three feet from the side yard on the eastern side of the property. Notice was sent to all property owners within 300 feet. At the time of this writing, staff had not received any comments from the public. Staff does not recommend approval of the request because there is not an actual hardship, which is necessary for granting a variance. There is enough room on the lot to construct a garage in a different location.

M. Reinicke stated that he wished to construct a 40 x 28 drive-through attached garage. He stated that many other properties in that area had structures that were less than 6 feet from the property line. E. Fordham asked if he intended to have alley access to the garage as well as front access. M Reinicke stated that he did. M. Franzak stated that only 10% of a property could be covered with pavement, and it appeared that this property was already over that amount. Therefore, he may not be able to install another driveway off the alley. R. Hilt asked why he couldn't build a detached garage, which would not require a variance. Mr. Reinicke stated that he wanted an attached garage to provide protection from the elements in bad weather. S. Warmington asked M. Franzak if he knew when the current setbacks were written into the zoning ordinance. M. Franzak stated that he wasn't sure, but there had been a major overhaul to the zoning ordinance in 1986. The garage configuration and pavement requirements were discussed. S. Warmington asked M. Franzak the reasons for the 10% pavement restriction. M. Franzak stated that it was for stormwater and drainage purposes, as well as aesthetics.

A motion to close the public hearing was made by B. Larson, supported by E. Carter and unanimously approved.

S. Warmington stated that the board's decision was for the 3-foot setback, and the applicant would have to work out the pavement and other issues with staff. M. Franzak reminded board members of the criteria required to grant a variance. S. Warmington stated that no nearby

property owners had objected, and it appeared that many of the neighboring properties also had setbacks that were less than what the current zoning ordinance required.

The following findings of fact were offered: a) That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or class of uses in the same zoning district, b) That such dimensional variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity, c) That the authorizing of such dimensional variance will not be of substantial detriment to adjacent property and will not materially impair the purposes of this chapter or the public interest, d) That the alleged difficulty is caused by the Ordinance and has not been created by any person presently having an interest in the property, or by any previous owner, e) That the alleged difficulty is not founded solely upon the opportunity to make the property more profitable or to reduce expense to the owner, and f) That the requested variance is the minimum action required to eliminate the difficulty.

A motion that the variance request to allow an addition to the principal structure with an east side yard setback of three feet in an R-1, Single Family Residential District at 2473 Crozier Ave be approved, was made by S. Warmington, supported by B. Larson and approved, with R. Hilt, B. Larson, E. Fordham, and S. Warmington voting aye, and E. Carter voting nay.

#### OLD BUSINESS

None

#### OTHER

None

There being no further business, the meeting was adjourned at 4:38 p.m.